



Senate

General Assembly

File No. 442

January Session, 2011

Substitute Senate Bill No. 297

Senate, April 7, 2011

The Committee on Human Services reported through SEN. MUSTO of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING AN AMENDMENT TO THE MEDICAID STATE PLAN UNDER SECTION 1915(i) OF THE SOCIAL SECURITY ACT TO PROVIDE HOME CARE SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) The Commissioner of
2 Social Services shall seek to amend the Medicaid state plan pursuant to
3 Section 1915(i) of the Social Security Act to improve access to home
4 and community-based services by using needs-based eligibility
5 criteria. The commissioner may amend a previously submitted waiver
6 application submitted under Section 1915(c) of the Social Security Act
7 if necessary to implement the provisions of this section.

8 (b) A person shall be financially eligible for coverage of home and
9 community-based services under the Section 1915(i) Medicaid state
10 plan amendment if the person meets the categorical eligibility special
11 income requirements established by the commissioner and described
12 in section 2540.92 of the Department of Social Services uniform policy
13 manual.

14 (c) Except for a person having mental retardation, as defined in
15 section 1-1g of the general statutes, a person shall be functionally
16 eligible for coverage of home and community-based services under the
17 Section 1915(i) Medicaid state plan amendment if the person is
18 assessed as having a functional limitation that is expected to last for a
19 continuous period of more than ninety days and that is characterized
20 by: (1) An inability, without substantial assistance, substantial
21 supervision or substantial cueing, to perform two or more (A)
22 activities of daily living, that shall include, but not be limited to,
23 eating, toileting, transferring from one place to another, bathing,
24 dressing and continence; or (B) instrumental activities of daily living,
25 that shall include, but not be limited to, housework, meal preparation,
26 administering medications, managing money, shopping and
27 communicating by telephone or other means; or (2) a serious and
28 persistent mental health condition.

29 (d) A person who is otherwise eligible to receive services under this
30 section shall, as a condition of participation in the program (1) apply
31 for benefits under a state medical assistance program at the request of
32 the Department of Social Services, and (2) if determined eligible for
33 state medical assistance benefits, accept such benefits.

34 (e) A person whose income exceeds two hundred per cent of the
35 federal poverty level shall contribute to the person's cost of care in
36 accordance with the methodology established for recipients of medical
37 assistance pursuant to sections 5035.20 and 5035.25 of the department's
38 uniform policy manual.

39 (f) Except for a person with acquired brain injury, who is eligible for
40 Medicaid-financed home and community-based services pursuant to
41 section 17b-260a of the general statutes, a person who is determined to
42 be financially and functionally eligible for home and community-based
43 services under this section shall qualify for payment of such services in
44 an amount not to exceed a monthly care plan cost cap equal to one
45 hundred per cent of the weighted average cost of the state's monthly
46 payment for services in a skilled nursing facility or intermediate care

47 facility.

48 (g) The community-based services covered under the Section 1915(i)
 49 Medicaid state plan amendment shall include, but not be limited to,
 50 home and community-based services that have been approved for
 51 Medicaid waivers under Section 1915(c) of the Social Security Act and
 52 described in sections 17b-260a, 17b-283, 17b-342, 17b-602a and 17b-
 53 605a of the general statutes, to the extent that such services are not
 54 otherwise available under the Medicaid state plan.

55 Sec. 2. (NEW) (*Effective from passage*) The Commissioner of Social
 56 Services shall submit an application in accordance with the State
 57 Balancing Incentive Payment Program, established pursuant to Section
 58 10202 of the Patient Protection and Affordable Care Act, P.L. 111-148,
 59 to the Centers for Medicare and Medicaid Services to increase the
 60 state's federal matching assistance payments for Medicaid home and
 61 community-based services. The commissioner shall make the
 62 administrative changes required in accordance with the terms of said
 63 program including, but not limited to: (1) The establishment of a no
 64 wrong door-single entry point system to enable consumers to gain
 65 access to information on services available, including referral services,
 66 and to receive an assessment to determine eligibility for various
 67 programs; (2) the provision of conflict-free case management services
 68 to develop individual service plans and to arrange for and conduct
 69 ongoing monitoring of services; and (3) the utilization of a core
 70 standardized assessment instrument to determine eligibility and
 71 appropriate services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

Statement of Legislative Commissioners:

In section 2, "pursuant to the Patient Protection and Affordable Care Act" was changed to "pursuant to Section 10202 of the Patient Protection and Affordable Care Act" for clarity. In section 2 (2),

"conflict free case management" was changed to "conflict-free case management services" for conformity with the reference in the federal act.

HS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: See Below

Municipal Impact: None

Explanation

The bill requires the Department of Social Services (DSS) to amend the Medicaid state plan to expand home and community based services. The bill specifies that DSS may amend waivers if necessary to implement the bill.

Potential Costs

The applicable waivers include Acquired Brain Injury (ABI), Personal Care Assistant (PCA), and Katie Beckett, all of which have a waiting list. The table below identifies the costs associated with expanding services to the individuals on the waiting lists for these programs.¹

Waiver Program	Number on Wait List	Average Annual Cost Per Person (\$)	Total Annual Cost (\$ Gross)
ABI	60	102,000	6,120,000
PCA	110	28,000	3,080,000
Katie Beckett	400	28,000	11,200,000
Total	570		20,400,000

The total cost for the 570 individuals on the waiting lists would be approximately \$20.4 million annually, which would result in a net state cost of \$10.2 million due to the 50% federal Medicaid reimbursement. If the state receives an enhanced Medicaid rate (52%)

¹ Cost estimates are based on caseload information as of December 2010.

due to meeting the program requirements of the Balancing Incentive Payment program, the state cost would be \$9.8 million. These costs could increase if additional individuals, not currently on the waiting lists, are eligible to enroll as a result of the amended plan.

Potential Savings

The bill also applies to the Connecticut Home Care Program (CHCP). The waiver portion of this program is not capped and therefore does not have a waiting list. To the extent the bill applies to the state funded portion of the CHCP, the state could realize a savings associated with federal Medicaid reimbursement. The FY 11 expenditures of the state funded program are estimated at \$55.6 million for over 4,200 clients. For purposes of illustration, if everyone in the program qualifies under the amended plan, this would result in a savings of approximately \$27.8 million annually as state expenditures are eligible for the 50% federal Medicaid reimbursement. If the state receives an enhanced match (52%) due to meeting the program requirements of the Balancing Incentive Payment program, the state savings under CHCP would be \$28.9 million.

The bill could also result in savings associated with cost-sharing for those with incomes over 200% of the federal poverty level (FPL). The extent of these savings depends on the number of applicable individuals and the level of cost sharing imposed.

The bill requires DSS to apply to the Balancing Incentive Payment Program. The costs, federal reimbursements, and guidelines for this program are not yet known. The state could receive a two percent increase in federal matching assistance for a total reimbursement rate of 52% for home and community based services, as noted above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of eligible recipients, the level of cost-sharing, and the federal reimbursement rate.

OLR Bill Analysis**sSB 297*****AN ACT CONCERNING AN AMENDMENT TO THE MEDICAID STATE PLAN UNDER SECTION 1915(I) OF THE SOCIAL SECURITY ACT TO PROVIDE HOME CARE SERVICES.*****SUMMARY:**

This bill requires the Department of Social Services (DSS) commissioner to seek an amendment to the Medicaid state plan to offer home- and community-based services under Section 1915i of the federal Social Security Act. To qualify for the program, individuals must meet certain financial and functional eligibility criteria. The bill establishes cost-sharing requirements and spending limits for participants.

The bill permits the commissioner to amend a previously submitted 1915c waiver application (the state has several programs that operate under 1915c waivers) if needed to implement the new program.

It also requires the commissioner to submit an application for the Balancing Incentive Payment Program established under the federal Affordable Care Act of 2010. Under this program, the state is eligible for a higher federal Medicaid reimbursement if it can show that it has rebalanced its long-term care system and spends less on institutional care.

EFFECTIVE DATE: Upon passage

MEDICAID STATE PLAN AMENDMENT***Financial Eligibility***

To be financially eligible for services under the Section 1915i state plan amendment, the bill requires an individual to meet the categorical eligibility special income “requirements” (presumably limits) the DSS

commissioner has established. Those limits are 300% of the federal Supplemental Security Income (SSI) maximum benefit. Currently, 300% of the SSI maximum is \$2,022 per month for an individual.

Functional Eligibility

With the exception of someone who has a developmental disability, as defined in state law, a person is functionally eligible for 1915i services if he or she is assessed as having a functional limitation that is expected to last for a continuous period of more than 90 days and that is characterized by:

1. an inability, without substantial assistance, substantial supervision, or substantial cueing, to perform two or more (a) activities of daily living, including eating, toileting, transferring from one place to another, bathing, dressing and continence; or (b) instrumental activities of daily living, including housework, meal preparation, medication administration, money management, shopping, and communicating by telephone or other means or
2. a serious and persistent mental health condition.

Eligible Individuals to Apply for DSS Medical Assistance

The bill provides that individuals who qualify for the 1915i services must (1) apply for benefits under a state medical assistance program when DSS asks them to and (2) accept the benefits if determined eligible as a condition of participating in the program.

Cost Sharing

The bill requires individuals whose income is more than 200% of the federal poverty level (FPL) to contribute towards their care costs. In 2011, 200% of the FPL is \$1,815 per month for a single person. Under this income-based methodology, the state deducts 200% of FPL amount from the individual's income and the contribution comes from the remainder.

Services

The bill provides that the community-based services under the 1915i program must include those home- and community-based services that the federal government has approved under the state's Medicaid 1915c waivers, to the extent these services are not otherwise available under the Medicaid state plan. These include personal care, assisted living, home modifications, help with chores, and many more.

Service Cost Caps

Under the bill, except for someone with an acquired brain injury (ABI) who is eligible for the state's ABI 1915c waiver, someone eligible for the 1915i services qualifies for services costing no more than 100% of the weighted average cost of the state's monthly payment for services in a nursing home.

BALANCING INCENTIVE PAYMENT PROGRAM

The bill requires the commissioner to apply to the federal Centers for Medicare and Medicaid Services to increase the state's federal matching funds for Medicaid home- and community-based services under the Balancing Incentive Payment Program, which was established in the Affordable Care Act (see BACKGROUND).

The commissioner must make the administrative changes needed, including (1) establishing a "no wrong door-single point-of-entry system" to enable consumers to gain access to information on services available, including referrals, and receive long-term care program eligibility assessments; (2) providing "conflict free" case management to develop individual service plans; and (3) using a core standardized assessment instrument to determine eligibility and appropriate services.

The state has taken some steps in this direction already, such as creating Aging and Disability Resource Centers for single-points of entry at some of the state's area agencies on aging.

BACKGROUND

1915i — Changes in the Affordable Care Act

States were given the option of adopting a 1915i state plan amendment under the federal Deficit Reduction Act of 2005. The more recently passed federal Affordable Care Act (ACA) of 2010 made changes to the 1915i law.

One ACA provision prohibits states that adopt 1915i amendments from limiting the number of individuals who can receive 1915i services or establish a waiting list for them. Likewise, states may not limit the availability of services to specific geographic areas. This essentially makes the services an entitlement and requires anyone meeting the program's eligibility requirements to be served.

Another provision in the ACA allows states to provide services to individuals with incomes up to 300% of the SSI maximum, provided those individuals would otherwise qualify for home- and community-based services under a Medicaid 1915 waiver. For example, Connecticut has several 1915c waivers, all of which impose a 300% of SSI income limit.

Balancing Incentive Payment Program

The ACA includes this program, which runs from October 1, 2011 through September 30, 2015. It offers financial incentives to states that spent less than 50% of their Medicaid long-term care dollars on home- and community-based services (HCBS) in FY 09. Under the program, states that spent between 25% and 50% receive a 2% increase in federal matching funds (Connecticut spent 35%).

To receive the enhanced match, states must take certain actions within six months of applying for the program, including instituting a single-point-of-entry system for long-term care information, referrals, and program eligibility. And they must increase their HCBS spending to 50% by the end of the four-year period.

Related Bill

sSB 1059, favorably reported by the Government Administration and Elections and Public Health committees, also requires DSS to apply for the Balancing Incentive Payment Program.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 16 Nay 2 (03/22/2011)